

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DANIEL J. WIK, Plaintiff, -vs- DONALD R. KUNEGO, in his personal and individual capacity, Defendant.	Index No.: 11 CV 6205 CJS
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**DEFENDANT'S INITIAL DISCLOSURE UNDER
FEDERAL RULE OF CIVIL PROCEDURE 26(a)**

The defendant, DONALD R. KUNEGO, by and through its attorneys, LIPPMAN O'CONNOR, hereby discloses the following:

1. The name, the address and telephone number of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses:

- The defendants do not have a fully comprehensive list of witnesses that may be called to support its defenses. However, beyond the parties to this action it is expected that the defense may call various police officers, including New York State Trooper Pitz, who have had contact with the plaintiff relative to current and prior underlying criminal and/or vehicle and traffic matters.

2. A copy, or a description by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses:

-The defense will rely on all criminal court records that relate to the arrest of the plaintiff on or about July 27, 2010. Those records will include any and all accusatory instruments as well as the Certificate of Disposition. It is also expected that the defendants will utilize New York State Department of Motor Vehicle records as they might apply to plaintiff's privilege to drive in New York State. Defendants will attempt to obtain records from the Internal Revenue Service regarding plaintiff's reporting of income over the last five (5) years. Defendant will use the complete medical file(s) of the plaintiff, these records are not yet made available to the defendants. It is the defendant's understanding that plaintiff is possession of the criminal informations/complaints and uniform traffic citations. The defendant is not aware of any other

discoverable documents at this time.

3. A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered:

-Not applicable.

4. For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment:

-Defendants are not yet in possession of the applicable insurance policy, however, upon receipt of same a copy will be delivered to plaintiff thereafter.

5. Expert Testimony – a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705:

-The defendants have not retained any experts to date but reserve the right to do so. It is also expected that the defense will call medical and health care providers who treated or examined the plaintiff.

Dated: Buffalo, New York
September 19, 2011

LIPPMAN O'CONNOR

By: /s/ Robert H. Flynn, Esq.
Robert H. Flynn, Esq.
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To:

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2011 I electronically filed the foregoing Initial Disclosure under Federal Rule of Civil Procedure 26(a) with the Clerk of the District Court using its CM/ECF system which would then electronically notify the following DM/ECF participants on this case and *via United States Mail*:

Plaintiff:

Daniel J. Wik
Pro Se Plaintiff
c/o non-domestic
659 Averill Avenue
Rochester, NY 14416

/s/ Robert H. Flynn
Robert H. Flynn